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CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

METRO FUEL LLC, a Delaware limited
liability company,

Plaintiff,

vs.

CITY OF SAN FRANCISCO, a municipal
corporation, COUNTY OF SAN
FRANCISCO, a subdivision of the State
of California, CITY AND COUNTY OF
SAN FRANCISCO, a chartered California
city and county and DOE 1 through DOE
10,

Defendants.

Case No. C07-6067 JSW

**STIPULATION AND PROPOSED
ORDER**

1 WHEREAS, on May 8, 2008, the parties filed a stipulation and proposed order informing the
2 Court that the parties were exploring a stay of the present litigation (Plaintiff Metro Fuel's agreement
3 to stay the litigation was conditioned on Defendant City and County of San Francisco's agreement to
4 stay enforcement of local ordinances at issue in the present litigation); and

5 WHEREAS, on May 9, 2008, the Court adopted the parties' proposed order and vacated the
6 Court's April 17, 2008 order setting a briefing schedule on Defendant City and County of San
7 Francisco's Motion to Dismiss and the June 20, 2008 hearing date; and

8 WHEREAS, since May 9, 2008, the parties have conducted extensive negotiations in an
9 attempt to reach an agreement on staying enforcement of local ordinances at issue in the present
10 litigation. Unfortunately, were no able to reach an agreement by May 23, 2008; and

11 WHEREAS, on May 23, 2008, the parties filed a stipulation and proposed order informing the
12 Court that the parties were exploring a stay of the present litigation; and

13 WHEREAS, Defendant City and County of San Francisco fled an Answer to Plaintiff Metro
14 Fuel's Amended Complaint and Demand for Jury Trial by Friday, May 30, 2008; and

15 WHEREAS, counsel for Plaintiff Metro Fuel and the City Attorney's Office have agreed upon
16 the terms of proposal to stay the present litigation pending a decision by the Ninth Circuit in *Metro*
17 *Lights, L.L.C. v. City of Los Angeles*, 488 F.Supp.2d 927 (C.D. Cal. 2006), *appeal docketed*, No. 07-
18 55179 (9th Cir. Feb. 1, 2007) and *Metro Lights, L.L.C. v. City of Los Angeles* No. 04-1037, 2006 WL
19 4941839 (C.D. Cal. Nov. 3, 2006), *appeal docketed*, No. 07-55207 (9th Cir. Feb. 9, 2007), which
20 includes the City and County of San Francisco's agreement to stay enforcement of local ordinances at
21 issue in the present litigation; and

22 WHEREAS, counsel for Plaintiff Metro Fuel and the City Attorney's Office need to obtain
23 approval of the proposal to stay the litigation from their respective clients. Counsel for Plaintiff
24 Metro Fuel and the City Attorney's Office will notify the Court no later than Wednesday, June 11,
25 2008, that their respective clients have approved the proposal to stay the litigation.

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1 NOW, THEREFORE, it is hereby STIPULATED and AGREED as follows:

2 1. The parties shall file a joint statement by June 11, 2008, informing the Court whether
3 they have agreed to a stay of this litigation.

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6 DATED: June 6, 2008

DENNIS J. HERRERA
City Attorney

7
8 By: /s/
9 THOMAS S. LAKRITZ

10 Attorneys for Defendant CITY AND COUNTY OF
11 SAN FRANCISCO

12
13 DATED: June 6, 2008

EMERY CELLI BRINCKERHOFF & ABADY LLP

14
15 By: /s/
16 ERIC HECKER

17 Attorneys for Plaintiff METRO FUEL, LLC

18 IT IS SO ORDERED:
19

20
21 DATED: _____ By: _____
22 THE HONORABLE JEFFREY S. WHITE